

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

AMNESTY INTERNATIONAL USA; GLOBAL FUND
FOR WOMEN; GLOBAL RIGHTS; HUMAN
RIGHTS WATCH; INTERNATIONAL CRIMINAL
DEFENSE ATTORNEYS ASSOCIATION; THE
NATION MAGAZINE; PEN AMERICAN CENTER;
SERVICE EMPLOYEES INTERNATIONAL
UNION; WASHINGTON OFFICE ON LATIN
AMERICA; DANIEL N. ARSHACK; DAVID
NEVIN; SCOTT MCKAY; and SYLVIA ROYCE,

Plaintiffs,

v.

JOHN M. McCONNELL, in his official capacity as
Director of National Intelligence; LT. GEN. KEITH B.
ALEXANDER, in his official capacity as Director of
the National Security Agency and Chief of the Central
Security Service; and MICHAEL B. MUKASEY, in
his official capacity as Attorney General of the United
States,

Defendants.

**PLAINTIFFS' MOTION FOR
SUMMARY JUDGMENT**

Case No. 08 Civ. 6259 (JGK)

ECF CASE

PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

Pursuant to Rule 56 of the Federal Rules of Civil Procedure, plaintiffs in the above-captioned case respectfully move the Court to enter summary judgment in their favor.

This lawsuit challenges the constitutionality of the Foreign Intelligence Surveillance Act, 50 U.S.C. § 1801, *et seq.* ("FISA"), as amended by H.R. 6304, the FISA Amendments Act of 2008 ("FAA," or "Act"), which the President signed into law on July 10, 2008. As amended, FISA allows the executive branch sweeping and virtually unregulated authority to monitor the international communications – and in some cases the purely domestic communications – of law-abiding U.S. citizens and residents. The Act violates the Fourth

Amendment by authorizing warrantless and unreasonable searches. It violates the First Amendment because it sweeps within its ambit constitutionally protected speech that the government has no legitimate interest in acquiring and because it fails to provide adequate procedural safeguards. It violates Article III and the principle of separation of powers because it requires the Foreign Intelligence Surveillance Court (“FISC”) to issue advisory opinions on matters that are not cases or controversies and because it permits the executive branch to continue surveillance even if the FISC determines the surveillance to be unconstitutional.

For the reasons stated in the enclosed Memorandum in Support of Plaintiffs’ Motion for Summary Judgment, plaintiffs are entitled to judgment as a matter of law.

Plaintiffs respectfully request that the Court hear oral argument.

Respectfully submitted,

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